



MONTEREY COUNTY SHERIFF'S OFFICE

February 27, 2014

Ms. Kathleen Howard, Executive Director
Board of State and Community Corrections
600 Bercut Drive
Sacramento, CA 95811

RE: Appeal Hearing Request, BSCC Decision on SB 1022 Funding Application

Dear Director Howard,

The Monterey County Sheriff's Office and the County of Monterey formally request an appeal hearing to contest the process used to rate our application for funding under the Board of State and Community Corrections (BSCC) SB 1022 Construction Financing program. The decision of the Board was rendered following an evaluation process which we believe, with all due respect, was significantly flawed.

The BSCC rendered this decision regarding distribution of SB 1022 funding on January 16, 2014 at their regularly scheduled Board meeting. You notified us of the decision on January 29, 2014. This appeal hearing request is being filed within the thirty calendar day period following notification of the Board's decision in this matter. This request is made under the provisions of Article 5, Appeal Procedures, found in Title 15, Division 1, Chapter 1, Subchapter 6, BSCC Construction Financing Program, as provided to us with your letter of January 29.

We are dissatisfied with the BSCC's evaluation and rating process, as well as the application assessment process of our SB 1022 proposal. Specifically, we believe our proposed project application was not properly credited with meeting certain "preference criteria" which would have placed us in a better position for funding.

Additionally, we believe the Executive Steering Committee process used to rate our project was flawed, in that we believe at least one of the evaluators on the Committee rating our project was from a medium-sized county who had submitted a proposal in direct competition for the same funding we were seeking with our project. If true, even if this evaluator recused himself from rating his county's project, he should not have been allowed to rate the proposals of competing counties. Since we were never provided with the specific details as to how these evaluators scored our project or who they were, this point is speculative.

The Monterey County Sheriff's Office submitted a proposal requesting approximately \$23 million to construct twenty-four special use mental health beds and additional programming space for the Monterey County jail facility. After submitting our application we worked closely with

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BSCC staff to insure we had met the critical preference criteria required for the project proposal to be successful. BSCC staff worked with us until they felt confident in telling us that, in their opinion, we had met at least three of the four preference criteria. This specifically included "Preference Criteria #1, Adequate County Contribution Funds," which we were told was mandatory. In other words, if Preference Criteria #1 was not met, our application would be rejected.

Since this was a BSCC project, we relied completely on the assurances of BSCC staff in assessing whether or not we had met the various preference criteria. Ultimately we were granted none of the preference criteria, which effectively eliminated our project from further consideration.

The rejection of our preference criteria was apparently determined by the Department of Finance, not the BSCC. We were not notified of the contrary determination of the DOF and were given no details as to why our assertion of having met the preference criteria had been rejected. We were given no opportunity to correct any perceived shortcomings in meeting the criteria.

Although additional documentation to support our position could have been provided at the time of application if we had been so directed, we were assured by BSCC staff that our documentation was sufficient. We have included additional documentation with this appeal. We are also resubmitting the supporting materials that illustrate our compliance with the provisions of the other preference criteria.

We wish to appeal the fact that we received no credit for meeting any of the preference criteria. We contend we met (and continue to meet) at least three of the four preference criteria, including Preference Criteria One: Adequate County Contribution Funds; Preference Criteria Two: Real Estate Due Diligence; Preference Criteria Three, Authorization of Project Documents; and that additionally we now substantially meet Preference Criteria Four, CEQA. We are including an administrative draft Environmental Impact Report, available at the time of our project submittal, as evidence of compliance with the CEQA criteria. We are requesting the BSCC to reconsider our application and supporting materials, and grant us credit for all four preference criteria.

Additionally, we respectfully dispute the rating process of the Executive Steering Committee that graded our project. Specifically we have been told that at least one evaluator who graded our project was from a medium-sized county that had also submitted a proposal for SB 1022 funding. In other words, our project was evaluated and graded by someone who was in direct competition for the same pool of medium-sized county dollars. We are told this individual helped prepare the competing proposal. We do not know if more than one of the evaluators was similarly in competition for funding of their projects.

If, in fact, our project was scored by any evaluators from competing medium-sized counties, regardless of their position with said counties, we respectfully ask that their rating scores be removed from the calculation of our project's worthiness. Once these scores are removed we suggest the scores be recalculated and awarded to our project and each other county in similar circumstances. I note that the rules regarding this appeal process include the restriction that no individual from a county submitting a proposal for funding can be used as a member of the appeal hearing board. I would contend that the same restriction should have applied to those rating our projects in the first place.

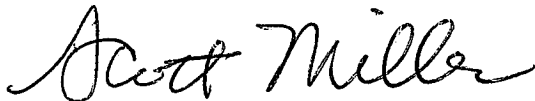
In summary, we suggest the following remedies for the issues we have raised regarding the evaluation and assessment of our project:

1. Reevaluate our compliance with the preference criteria requirements. Give us the preference criteria credits where we are deemed substantially and adequately in compliance, and
2. Recalculate our project score awarded by the Executive Steering Committee, and approved by the Board, after removing any scoring done by individuals from medium-sized counties with projects competing for the same funding pool.

If the BSCC appeal process grants any or all of our suggested remedies we would ask that the BSCC re-rank county proposals accordingly. Available funding should then be applied based on the updated rankings. If our project rises to the level of being fully or partially funded following this suggested reassessment we would appreciate the funding. Otherwise, we would expect to take our place in line based on any adjustments made and patiently wait for any funding that may become available in the future.

Thank you for your thoughtful consideration. We recognize the difficulty in equitably managing these precious, limited funds with the tremendous need we all have to serve our communities. I look forward to working with you on this very important process.

Sincerely,



Scott Miller, Sheriff/Coroner
Monterey County, California
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Salinas, CA 93906

Attachments:

Attachment A: County Contribution Funding Preference/Project Documents Funding Preference:

1. Letter from County Administrative Officer
2. Monterey County Board of Supervisors Resolution

Attachment B: Real Estate Due Diligence Funding Preference:

1. Due Diligence Submittal

Attachment C: CEQA Funding Preference:

1. Administrative Draft Environmental Impact Report for our AB 900 project, (to be constructed at the same location as the SB 1022 project).